

**PATENT APPLICATION**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q78585

Marco FRANCIA

Appln. No.: 10/716,422

Group Art Unit: 1761

Confirmation No.: 6553

Examiner: Timothy F. Simone

Filed: November 20, 2003

For: AN AUXILIARY SPRINKLING AND RECIRCULATION DEVICE FOR WINE-  
MAKING TANKS

**REQUEST FOR REFUND**

**MAIL STOP 16**

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Applicant hereby respectfully requests a refund in the amount of \$60.00. This refund is to be credited to Deposit Account No. 19-4880.

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1. Deposit Account Monthly Statement showing the charge to our account,
2. U.S. Patent Office Action dated April 25, 2006;
3. Copy of our response and date-stamped filing receipt dated August 25, 2006 .

Request for Refund  
U.S. Patent Application S.N.: 10/716,422  
SUGHRUE MION, PLLC Ref: Q78585

It is respectfully submitted that the response filed on August 25, 2006, was timely filed within the six month period for response, and therefore no Petition for Extension of Time fee was due.

A duplicate copy of this paper is attached.

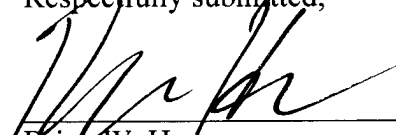
SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

Respectfully submitted,

  
Brian W. Hannon  
Registration No. 32,778

Date: May 9, 2007

**PATENT APPLICATION**  
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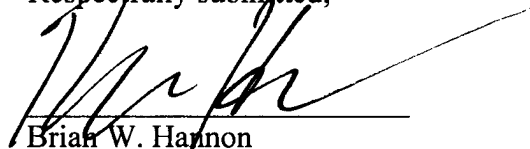
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U.S. Patent Application S.N.: 10/716,422  
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A duplicate copy of this paper is attached.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brian W. Hannon', is written over a horizontal line.

Brian W. Hannon  
Registration No. 32,778

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

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Date: May 9, 2007



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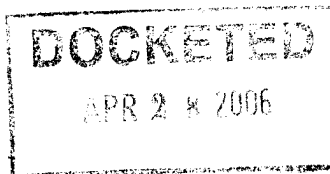


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,422	11/20/2003	Marco Francia	Q78585	6553

23373 7590 04/25/2006  
SUGHRUE MION, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
SUITE 800  
WASHINGTON, DC 20037



EXAMINER
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SIMONE, TIMOTHY F

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/716,422	<b>Applicant(s)</b> FRANCIA, MARCO	
	<b>Examiner</b> Timothy F. Simone	<b>Art Unit</b> 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 8-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

727

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In re application of

Marco FRANCIA

Appln. No.: 10/716,422

Group Art Unit: 1761

Confirmation No.: 6553

Examiner: Timothy F. Simone

Filed: November 20, 2003

For: AN AUXILIARY SPRINKLING AND RECIRCULATION DEVICE FOR WINE-MAKING  
TANKS

PAPER(S) FILED ENTITLED:

1. Amendment Under 37 C.F.R. §1.111

SUGHRUE MION, PLLC

Telephone: (202) 293-7060

Facsimile: (202) 293-7860

DOCKET NO.: Q78585

ATTORNEY/SEC: BWH:phv

Date Filed: August 25, 2006

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER





**PATENT APPLICATION**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q78585

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Appln. No.: 10/716,422

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Examiner: Timothy F. Simone

Filed: November 20, 2003

For: AN AUXILIARY SPRINKLING AND RECIRCULATION DEVICE FOR WINE-  
MAKING TANKS

**AMENDMENT UNDER 37 C.F.R. § 1.111**

**MAIL STOP AMENDMENT**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated April 25, 2006, please amend the above-identified application as follows on the accompanying pages.

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Amendment Under 37 C.F.R. § 1.111  
Serial No.: 10/716,422  
SUGHRUE MION, PLLC Ref: Q78585

### **AMENDMENTS TO THE CLAIMS**

**This listing of claims will replace all prior versions and listings of claims in the application:**

#### **LISTING OF CLAIMS:**

Claim 1 (currently amended):           A sprinkling device, particularly for processes for making wine from red grapes, which device can be associated with a fermentation and/or storage tank in order to recirculate the wine must that is being fermented from the base region to the top region of the fermentation tank and to sprinkle the recirculated wine must in a stream into the top region of the fermentation tank, said sprinkling device comprising:

- an auxiliary tank which can be fitted in a hatch or similar top opening of a main tank and which is provided with means for fixing to the hatch,
- first discharge means for the discharge of the wine must that is supplied to the auxiliary tank from the main tank, which means comprise an opening in the base of the auxiliary tank and a closure member which is movable between a closure position and an open position in order to produce a first sprinkling stream of the recirculated wine must, and
- second discharge means for the discharge of the wine must, which means are associated with the closure member and can discharge the wine must by means of a second sprinkling stream when the level of recirculated wine must in the auxiliary tank reaches a predetermined level,

Amendment Under 37 C.F.R. § 1.111  
Serial No.: 10/716,422  
SUGHRUE MION, PLLC Ref: Q78585

wherein the second discharge means comprise an auxiliary discharge opening in the closure member and an overflow duct communicating with the opening in order to deliver the recirculated wine must through the auxiliary opening.

Claim 2 (canceled).

Claim 3 (currently amended): A sprinkling device, particularly for processes for making wine from red grapes, which device can be associated with a fermentation and/or storage tank in order to recirculate the wine must that is being fermented from the base region to the top region of the fermentation tank and to sprinkle the recirculated wine must in a stream into the top region of the fermentation tank, said sprinkling device comprising:

- an auxiliary tank which can be fitted in a hatch or similar top opening of a main tank and which is provided with means for fixing to the hatch,
- first discharge means for the discharge of the wine must that is supplied to the auxiliary tank from the main tank, which means comprise an opening in the base of the auxiliary tank and a closure member which is movable between a closure position and an open position in order to produce a first sprinkling stream of the recirculated wine must, and
- second discharge means for the discharge of the wine must, which means are associated with the closure member and can discharge the wine must by means of a second sprinkling stream when the level of recirculated wine must in the auxiliary tank reaches a predetermined level,~~A sprinkling device according to Claim 1,~~

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SUGHRUE MION, PLLC Ref: Q78585

wherein the second discharge means comprise a diffuser member which is associated with the auxiliary opening and which can interfere with the sprinkling stream coming from the opening in order to modify the shape of the stream.

Claim 4 (original): A sprinkling device according to Claim 3, wherein the diffuser member comprises a member with a conical surface associated with the closure member beneath the auxiliary opening.

Claim 5 (original): A sprinkling device according to Claim 3, wherein the diffuser member comprises an inclined plate, associated with the closure member beneath the auxiliary opening and suit-able for producing a directional sprinkling stream.

Claim 6 (original): A sprinkling device according to Claim 1, wherein said auxiliary tank comprises associated supply means for the re-circulated wine must, the supply means being connectible to a recirculation duct which draws off the wine must from the main tank with which the device is associated.

Claim 7 (original): A sprinkling device according to Claim 6, wherein said supply means comprise a supply duct connectable to said re-circulation duct, having one or more end nozzles suitable to supply one or more streams of recirculated wine must with a jet(s) oriented

Amendment Under 37 C.F.R. § 1.111  
Serial No.: 10/716,422  
SUGHRUE MION, PLLC Ref: Q78585

according to pre-determined directions through the base opening of the tank, when the closure member is open.

Claim 8 (currently amended): A sprinkling device, particularly for processes for making wine from red grapes, which device can be associated with a fermentation and/or storage tank in order to recirculate the wine must that is being fermented from the base region to the top region of the fermentation tank and to sprinkle the recirculated wine must in a stream into the top region of the fermentation tank, said sprinkling device comprising:

- an auxiliary tank which can be fitted in a hatch or similar top opening of a main tank and which is provided with means for fixing to the hatch,
- first discharge means for the discharge of the wine must that is supplied to the auxiliary tank from the main tank, which means comprise an opening in the base of the auxiliary tank and a closure member which is movable between a closure position and an open position in order to produce a first sprinkling stream of the recirculated wine must, and
- second discharge means for the discharge of the wine must, which means are associated with the closure member and can discharge the wine must by means of a second sprinkling stream when the level of recirculated wine must in the auxiliary tank reaches a predetermined level,

wherein said auxiliary tank comprises associated supply means for the re-circulated wine must, the supply means being connectible to a recirculation duct which draws off the wine must from the main tank with which the device is associated; and

Amendment Under 37 C.F.R. § 1.111  
Serial No.: 10/716,422  
SUGHRUE MION, PLLC Ref: Q78585

~~A sprinkling device according to Claim 6,~~ wherein the supply means comprise three-way valve means with an inlet connector connectible to the recirculation duct, a first outlet duct which supplies the recirculated wine must into the auxiliary tank through the valve means, and a second outlet duct which is arranged to be connected to a duct for supplying the recirculated wine must to the main tank, the valve means being arranged to supply the recirculated wine must selectively to the first outlet duct or to the second outlet duct.

Claim 9 (original): A sprinkling device according to Claim 8, comprising oxygenation means, associated with the first outlet duct and/or with the second outlet duct, for oxygenating the recirculated wine must.

Claim 10 (original): A sprinkling device according to Claim 9, wherein the oxygenation means comprise air-injection means.

Claim 11 (original): A sprinkling device according to Claim 1, wherein the first discharge means can be operated in order to modulate the head of wine must in the tank in order to determine the width and characteristics of the sprinkling stream.

Claim 12 (original): A sprinkling device according to Claim 11, wherein the first discharge means are actuated by an electric actuator.

Amendment Under 37 C.F.R. § 1.111  
Serial No.: 10/716,422  
SUGHRUE MION, PLLC Ref: Q78585

Claim 13 (original): A sprinkling device according to Claim 1, wherein the first discharge means comprise a plate-like closure member having, on the side facing towards the interior of the auxiliary tank, an inclined wall suitable for producing an asymmetric, directional sprinkling stream through the base opening of the auxiliary tank.

Claim 14 (original): A sprinkling device according to Claim 1, wherein the first discharge means comprise a plate-like closure member articulated laterally to the wall delimiting the base opening and a rod-like operating member which can bring about inclined angular opening of the closure member in order to produce an asymmetric, directional sprinkling stream.

Claim 15 (original): A sprinkling device according to Claim 1, wherein the first discharge means comprise a plate-like closure member connected to an operating rod, the plate having a peripheral profile which projects asymmetrically beyond the peripheral profile of the base opening in order to produce an asymmetric, directional sprinkling stream.

Claim 16 (original): A sprinkling device according to Claim 1, wherein said first discharge means comprise a base opening of said auxiliary tank having a mouth profile lying in an inclined plane with respect to the vertical and a plate closure member connected to an operating rod which can be inclined with respect to the vertical.

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Claim 17 (original): Fermentation apparatus comprising a main tank or vat and a sprinkling device according to Claim 1, associated with a hatch or similar top opening of the fermentation tank or vat.

Claim 18 (original): Fermentation apparatus according to Claim 17, wherein said fermentation tank or vat has a hatch or similar top opening positioned in an asymmetric position.

Claim 19 (previously presented): Fermentation apparatus according to Claim 17, comprising recirculation means which are arranged to draw off the wine must from the base region of the main fermentation tank or vat and to supply the wine must into the sprinkling device.

Claim 20 (original): Fermentation apparatus according to Claim 19, wherein the recirculation means comprise pumping means arranged to supply to the sprinkling device a recirculation flow rate such as to produce the second sprinkling stream through the second discharge means even when the first discharge means are in the open position.



Amendment Under 37 C.F.R. § 1.111  
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### **REMARKS**

Claims 1 and 3-20 are all the claims pending in the application. Applicant thanks the Examiner for having indicated that claims 2-5 and 8-16 contain allowable subject matter. Claims 3 and 8 have been rewritten in independent form including the limitations of the base claim and any intervening claims.

Claims 1, 6, 7 and 17-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Francia (U.S. Patent No. 6,279,457).

The subject matter of claim 2 has been incorporated into claim 1. Therefore, claim 1 is now allowable. Claims 6, 7 and 17-20 depend from claim 1 and are therefore allowable at least because of their dependency.

All of the pending claims now include subject matter which the Examiner has indicated as allowable or depend from a claim including allowable subject matter. Accordingly, the application is in condition for immediate allowance

### **Period for Response**

The Office Action does not set a shortened statutory period. Therefore, the period for reply is the maximum statutory period of six (6) months from the April 25, 2006 mailing date of the Office Action. Since the period for reply is therefore October 25, 2006, this Amendment is timely filed without an extension fee.

### **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Amendment Under 37 C.F.R. § 1.111  
Serial No.: 10/716,422  
SUGHRUE MION, PLLC Ref: Q78585

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

 #57574  
Brian W. Hannon  
*for* Registration No. 32,778

Date: August 25, 2006